


Application Number 	Application/Control No. 10/805,610 <i>George, P</i>	Applicant(s)/Patent and/or Reexamination DOAN ET AL. <i>1765</i>
Document Code - DISQ		Internal Document - DO NOT MAIL

TERMINAL DISCLAIMER	<input checked="" type="checkbox"/> APPROVED	<input type="checkbox"/> DISAPPROVED
Date Filed : <i>10-21-06</i>	This patent is subject to a Terminal Disclaimer	

Approved/Disapproved by: <i>[Signature]</i>

Attorney Docket No. P119-US

REMARKS

Claims 1-62 are pending. Claims 12, 13, 15, 18, 38, 39, 41, 44, and 58-62 were indicated as being allowable if rewritten into independent forms including all limitations of the base claims and any intervening claims. ^{69 60}

With this amendment, claims 1, 12, 13, 15, 20-22, 27, 34, 38, 39, 41, 43-45, 52, 53, and 58-60 are amended. ^{44 43, 59, 60} Claims 11, 14, 37, 40, and 57 are canceled in favor of the prosecution of the remaining pending claims.

Double Patenting Rejection

The Examiner rejected claims 1, 2, 9, 10, 16, 17, 19, 27, 28, 30, 34, 35, 42, 45, 53-56, 61, and 62 under judicially created doctrine of non-statutory double patenting over co-pending US patent applications serial number 10/104,109, and 10/270,465. In response, a terminal disclaimer is submitted herewith. Withdrawal of the rejection is respectfully requested.

Rejection of Claim 1 under 102(e)

The Examiner rejected independent claim 1 under 102(e) over Fernandes (US 5,310,626) in view of Leonard (US 5,506,171). The undersigned does not agree. However, to place this patent application into condition for allowance, claim 1 is amended to incorporate the subject matter of claim 11 (with the feature of HF being removed), from which allowable claims 12 and 13 depend. It is believed that claim 1 as amended, as well as claims 2-10, 12-13, and 15-26 that depend from claim 1, is patentable over Fernandes and Leonard. Reconsideration and withdrawal of the rejection are respectfully requested.

Rejection of Claims 27 and 53 under 103(a)

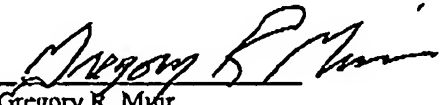
The Examiner rejected independent claims 27 and 53 under 103(a) over Fernandes (US 5,310,626). The undersigned does not agree. However, to place this patent application into condition for allowance, claim 27 is amended to incorporate the subject matter of claim 37 (with the feature of HF being removed), from which allowable claims 38 and 39 depend. It is believed that claim 27 as amended, as well as claims 28-36, 38-39, and 41-52 that depend from claim 27, is patentable over Fernandes. Reconsideration and withdrawal of the rejection are respectfully requested.

Independent claim 53 is amended to incorporate the subject matter of claim 57 (with the feature of HF being removed), from which allowable claims 58 and 59 depend. It is believed that claim 53 as amended, as well as claims 54-56 and 58-62 that depend from claim 53, is patentable over Fernandes. Reconsideration and withdrawal of the rejection are respectfully requested.

It is believed that this application is in condition for allowance. Favorable consideration and prompt allowance are respectfully requested. In the event any fees are required in connection with this paper, please charge our Deposit Account No. 501516.

Respectfully submitted,

REFLECTIVITY, INC.
350 Potrero
Sunnyvale, CA 95054
Fax: (408) 737-8153


Gregory R. Muir
Attorney for Applicants,
Registration No. 35,293
Tel: (408) 737-8100

Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TERMINAL DISCLAIMER TO OBVIATE A PROVISIONAL DOUBLE PATENTING REJECTION OVER A PENDING "REFERENCE" APPLICATION		Docket Number (Optional)
In re Application of: <u>DOAN</u>		
Application No.: <u>10/805,610</u>		
Filed: <u>3/18/2004</u>		
For: <u>A microelectromechanical structure and a method of making the same</u>		
<p>The owner, <u>Reflectivity Inc</u>, of <u>100</u> percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of any patent granted on pending reference Application Number <u>10/870,465</u>, filed on <u>10/11/2002</u>, as such term is defined in 35 U.S.C. 154 and 173, and as the term of any patent granted on said reference application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending reference application. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the reference application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.</p> <p>In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of any patent granted on said reference application, "as the term of any patent granted on said reference application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending reference application," in the event that: any such patent granted on the pending reference application: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.</p> <p>Check either box 1 or 2 below, if appropriate.</p> <p>1. <input type="checkbox"/> For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.</p> <p>I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.</p> <p>2. <input checked="" type="checkbox"/> The undersigned is an attorney or agent of record. Reg. No. <u>35,293</u></p> <p><u>Gregory R Muir</u> Signature <u>6/21/06</u> Date</p> <p><u>Gregory Muir</u> Typed or printed name</p> <p><u>408-737-8100</u> Telephone Number</p> <p><input type="checkbox"/> Terminal disclaimer fee under 37 CFR 1.20(d) is included.</p> <p>WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.</p> <p>*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner). Form PTO/SB/06 may be used for making this statement. See MPEP § 324.</p>		

This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Approved for use through 07/31/2006. OMB 0851-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**TERMINAL DISCLAIMER TO OBIATE A PROVISIONAL DOUBLE PATENTING
REJECTION OVER A PENDING "REFERENCE" APPLICATION**

Docket Number (Optional)

In re Application of: Doan

Application No.: 10/805,610

Filed: 3/18/2004

For: A microelectromechanical structure and a method for making the same

The owner, Reflectivity, Inc, of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of any patent granted on pending reference Application Number 10/104,109 filed on 3/22/2002, as such term is defined in 35 U.S.C. 154 and 173, and as the term of any patent granted on said reference application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending reference application. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the reference application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of any patent granted on said reference application, "as the term of any patent granted on said reference application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending reference application," in the event that any such patent granted on the pending reference application: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record. Reg. No. 35 293.

Gregory R. Muir 6/21/06
Signature Date
Gregory R. Muir
Typed or printed name
408-737-8100
Telephone Number

- ☐ Terminal disclaimer fee under 37 CFR 1.20(d) is included.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).
Form PTO/SB/96 may be used for making this statement. See MPEP § 324.

This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-8199 and select option 2.